

## TITLE 21. CHAPTER 7. TRANSPORTATION PERMITS

### NOTICE OF PROPOSED RULEMAKING

The Department of Transportation (“Department”) proposes to amend, repeal, and/or adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Department proposes to:

Amend Sections 1411.1, 1411.2, 1411.3, 1411.7

Repeal Sections 1411.4, 1411.5, 1411.6

Adopt New Sections 1411.4, 1411.5, 1411.6, 1411.7

Renumber Amended Section 1411.7 to 1411.8

In Title 21 of the California Code of Regulation (CCR). These sections pertain to the administration of the transportation permit program.

#### PUBLIC HEARING

The Department will hold a public hearing starting at 10:00 a.m., on April 3, 2002, in Room 1420, in the Headquarters building at 1120 N Street, Sacramento, California. The building is wheelchair accessible from the O Street entrance. Directions to the meeting room will be posted at both the N and O Street entrances. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at 5:00 p.m. on April 3, 2002. All comments must be received by that time at the address provided. Submit comments to:

Mr. Bob Martin  
Department of Transportation  
1120 N Street, MS 36  
Sacramento, CA 95814

## AUTHORITY AND REFERENCE

Article 6 commencing with Section 35780 of Division 15 of the California Vehicle Code, Sections 14001, 14007, 14008, and 14010 of the Government Code, Sections 20 and 50 of the Streets and Highway Code authorize the Department to amend and repeal these regulations. These regulations interpret and make specific California Vehicle Code Sections 35780, 35781, 35782, 35795.

## INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Section 1411.1 defines terms used in subsequent sections and in the transportation permit program. These terms are not defined anywhere else. For clarity, they are included in this section. This amendment includes all pertinent terms.

Section 1411.2 generally refers to where and how the Department issues permits. The use of modem and facsimile makes the location of permit issuance outdated, and the reference to a manual may be considered as an informal or “underground” regulation. The amendments to this section detail existing practice as to when the Department will withhold the issuance of a permit rather than making vague reference to a manual.

Section 1411.3 is primarily amended to increase the cost of permits by 25%. This is primarily a result of the increase in employees necessary to process permit applications in a timely manner. (See Attachments 1, 2, and 3). As requested in prior public comment periods, the fee structure remains as simple as possible. Other amendments include removing superfluous language. The word “all” is used to replace the detailed explanation of each type of Department employee. Former section 1411.6 is incorporated into this section as an amendment since it defines who is exempt from fees. The fee or exemption from fee for a permit rider is clarified in these amendments, and finally, a fee for missing a permit inspection is added as part of these amendments. The fee is considered a savings for those who make and keep appointments in that the inspectors will be more readily available in a timely manner.

Section 1411.4 is repealed in entirety. The Department will not regulate how it accepts payment.

Section 1411.5 is repealed in entirety and replaced by a new Section 1411.4. The duration of validity for each type of permit was determined by criteria based on public safety, simplicity of administration, and simplicity of explanation. The Department is confident that the status of highways in terms of construction is known five days in advance. This is the criteria as to the duration of a single trip permit. By removing all exceptions as to dating the permit and adding extensions, the opportunity for confusion for both staff and applicants is removed. This should create a “level playing field” since everyone will be treated the same regardless of which staff member processes their permit.

Section 1411.6 is amended and incorporated into Section 1411.3 since fees and their exemption are a part of that section.

The new Section 1411.5 addresses the role of pilot car operators. This is not addressed in law or in the permit conditions. Present Department policy is documented as to the requirements for route surveys. The requirement for notifying the driver of the permit vehicle of potential collision stems from civil action where the pilot car operator claimed this was not his responsibility.

The new Section 1411.6 simply makes the long-standing permit condition of familiarity with the requested route into a formal regulation. It also places some of the responsibility for finding a route onto the applicant by making a route survey a requirement when necessary.

The new Section 1411.7 makes long standing permit conditions into formal regulation. It also makes the core of the Department's compliance program into formal regulation. That is to say the reporting of accident and/or citation for movement while under the authority of a permit becomes a formal requirement, and if these become excessive or of such a nature that there is a concern for public safety, permits may be withheld.

Former Section 1411.7 is renumbered to Section 1411.8. The amendments are only editorial. For example, "Notwithstanding" is changed to "Specific exceptions" and "gallonage" to "capacity in gallons".

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: No. California Vehicle Code Section 35795 limits the maximum fee a local agency may charge for a permit to that charged by the Department. However, these amendments allow local agencies to increase their revenues and do not require additional cost.

Cost or savings to any state agency: Fees collected for permits are deposited into the State Highway Account in the State Transportation Fund.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Section 17561: None.

Other non-discretionary cost or savings imposed upon local agencies: The increase in fees should offset increased salary and benefit costs experienced by local agencies.

Cost or savings in federal funding to the state: None.

Cost impact on private person or directly affected business: Insignificant.

Significant statewide adverse economic impact directly affecting business, including ability of California businesses to compete with businesses in other states: No significant impact.

Significant effect on housing costs: None.

Create or eliminate jobs in California: None.

Create new business or eliminate existing businesses within California:  
No Impact

Affect the expansion of businesses currently doing business within California:  
No Impact

## **EFFECT ON SMALL BUSINESS**

It has been determined that the adoption of these regulations will not affect small business or business in general. The fee increase will be evenly distributed among competitors and uniformly passed onto clients. The increase is small enough that it will not affect the occasional shipment. Regular shipments are transported under annual permit. The \$20 per year increase will not affect business.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a) (13), the Department must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above-mentioned hearing or during the written period.

## **CONTACT PERSON**

General or substantive inquiries concerning the proposed action may be directed to:

Mr. Bob Martin  
Department of Transportation  
1120 N Street, MS 36  
Sacramento, CA 95814

(916) 653-5732

Requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based should also be directed to Bob Martin or:

Margaret Farley                      or                      Irma Rodriguez  
(916) 657-0295    (916) 654-4707

This notice, the “Initial Statement of Reasons”, and the proposed regulations are available at <http://www.dot.ca.gov/hq/traffops/permits/ccrproposals.htm>

## **RULEMAKING FILE**

Pursuant to Government Code Section 11346.5(a)(16), the Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. Copies may be obtained by contacting Bob Martin at the address listed above.

## **ADOPTION OF REGULATIONS**

Please note that, following the public comment period, the Department may adopt the regulations substantially as proposed in this notice or with modifications which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the Department adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to Bob Martin at the address listed above. The Department will accept written comments on the modified regulations during the 15-day period.

#### **SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE**

If, after receiving comments, the Department intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Department's regulation coordinator or at the web site named in this notice.